
HOUSE BILL No. 1419

DIGEST OF INTRODUCED BILL

Citations Affected: IC 7.1-3; IC 7.1-5-7-13.

Synopsis: Alcohol server training. Requires the alcohol and tobacco commission to establish an alcohol server training program that will take effect July 1, 2005. Requires the commission to consider a retail permittee's certification in the program in mitigation of administrative penalties or fines for an employee's illegal sale or service of an alcoholic beverage to an underage or intoxicated person.

Effective: Upon passage; July 1, 2004.

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January 20, 2004, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1419

A BILL FOR AN ACT to amend the Indiana Code concerning alcoholic beverages and tobacco.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 7.1-3-1.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]:
4 **Chapter 1.5. Alcohol Server Training**
5 **Sec. 1. As used in this chapter, "employee" means:**
6 **(1) a bartender; or**
7 **(2) a waiter or waitress;**
8 **issued a permit under IC 7.1-3-18-9.**
9 **Sec. 2. As used in this chapter, "program" refers to the alcohol**
10 **server training program established by section 5 of this chapter.**
11 **Sec. 3. As used in this chapter, "retail permittee" means a**
12 **person who has been issued a liquor retailer's permit under**
13 **IC 7.1-3-9.**
14 **Sec. 4. (a) This chapter applies after June 30, 2005.**
15 **(b) After June 30, 2005, an employee must successfully complete**
16 **an employee training course under this chapter before applying for**
17 **an employee permit.**



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1 **Sec. 5. (a) The commission shall establish an alcohol server**
 2 **training program designed to educate a retail permittee's**
 3 **employees about selling, serving, and consuming alcoholic**
 4 **beverages in a responsible manner.**

5 **(b) The program must provide the following:**

6 **(1) Enrollment and certification of the retail permittee whose**
 7 **employees participate in the program.**

8 **(2) Employee training courses taught by an enforcement**
 9 **officer training unit.**

10 **(c) The commission shall develop a handbook and distribute**
 11 **copies of the handbook to the retail permittee's employees. The**
 12 **commission may also develop and distribute amendments to the**
 13 **handbook.**

14 **Sec. 6. The employee training courses must include the following**
 15 **subject areas:**

16 **(1) Methods of identifying and dealing with underage or**
 17 **intoxicated persons, including strategies for delaying and**
 18 **denying sales and service to underage or intoxicated**
 19 **individuals.**

20 **(2) Classification of alcohol as a depressant and its effect on**
 21 **the human body, particularly on the ability to drive a motor**
 22 **vehicle.**

23 **(3) Effects of alcohol when taken with commonly used**
 24 **prescription and nonprescription drugs.**

25 **(4) State laws and rules regarding the sale and service of**
 26 **alcoholic beverages for consumption on licensed premises.**

27 **(5) Local ordinances and policies that affect the sale and**
 28 **service of alcoholic beverages for consumption on licensed**
 29 **premises.**

30 **Sec. 7. (a) A retail permittee must do the following:**

31 **(1) Except as provided in subsections (b) and (c), require each**
 32 **employee to successfully complete an employee training**
 33 **course not later than forty-five (45) days after beginning**
 34 **employment.**

35 **(2) Require each employee to attend, at least once every two**
 36 **(2) years, a refresher course that is scheduled by an**
 37 **enforcement officer training unit and includes the**
 38 **dissemination of new information concerning the program**
 39 **subject areas described in section 6 of this chapter.**

40 **(3) Maintain training verification records of each of the retail**
 41 **permittee's employees.**

42 **(b) The commission may extend the deadline under subsection**

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(a)(1) for completing an employee training course to not more than sixty (60) days if an employee is unable to complete the program in the first forty-five (45) days of the employee's employment through no fault of the employee.

(c) A person subject to IC 7.1-5-7-13(3) shall complete an employee training course before applying for an employee's permit under IC 7.1-3-18-9.

Sec. 8. The commission may:

(1) suspend or revoke an employee's permit or impose a fine on an employee; or

(2) suspend or revoke a retail permittee's permit or fine a retail permittee;

for noncompliance with this chapter in accordance with IC 7.1-3-23.

Sec. 9. The commission may not suspend or revoke the alcoholic beverage permit of a retail permittee for the illegal sale or service of an alcoholic beverage by an employee to an underage or intoxicated person if:

(1) the employee who made the illegal sale or service of an alcoholic beverage to an underage or intoxicated person had previously completed the required training under this chapter;

(2) the illegal sale or service of an alcoholic beverage to an underage or intoxicated person is the first such incident by an employee of the retail permittee within a twelve (12) month period; and

(3) the retail permittee:

(A) did not have knowledge of; and

(B) was not in a position to have known about;

the illegal sale or service of an alcoholic beverage to an underage or intoxicated person by an employee of the retail permittee.

Sec. 10. The commission shall consider the fact that a retail permittee is certified under this chapter in the mitigation of administrative penalties or fines for an employee's illegal sale or service of an alcoholic beverage to an underage or intoxicated person.

Sec. 11. The commission may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 2. IC 7.1-3-23-26.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 26.1. (a) A retailer or dealer permittee who violates IC 7.1-3-1.5, IC 7.1-5-7-4, or

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IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his~~ **the permittee's** permit suspended, or be fined and have ~~his~~ **the permittee's** permit suspended, as determined by the commission; however, if the penalty imposed by the commission exceeds a fine and three (3) day suspension, the commission must issue written findings of fact and conclusions which show the necessity of the penalty. If the retailer or dealer permittee commits a subsequent violation of the provisions listed in this subsection within twelve (12) months of the first violation, the commission may fine the permittee, fine ~~him~~ **the permittee** and suspend ~~his~~ **the permittee's** permit, or revoke ~~his~~ **the permittee's** permit; however, if the penalty exceeds a fine and suspension of more than fifteen (15) days, the commission must issue written findings of fact and conclusions which show the necessity of the penalty.

(b) The holder of an employee permit who violates IC 7.1-5-7-4 or IC 7.1-5-7-8 through IC 7.1-5-7-13 may be fined, have ~~his~~ **the permittee's** permit suspended, be both fined and have ~~his~~ **the permittee's** permit suspended, or have ~~his~~ **the permittee's** permit revoked, as determined by the commission.

SECTION 3. IC 7.1-5-7-13, AS AMENDED BY P.L.204-2001, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) Section 12 of this chapter does not prohibit the following:

(1) The employment of a person at least eighteen (18) years of age but less than twenty-one (21) years of age on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

- (A) selling;
- (B) furnishing, other than serving;
- (C) consuming; or
- (D) otherwise dealing in;

alcoholic beverages.

(2) A person at least eighteen (18) years of age but less than twenty-one (21) years of age from ringing up a sale of alcoholic beverages in the course of the person's employment.

(3) A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:

(A) has successfully completed:

- (i) **before July 1, 2005**, a server training program approved by the commission; **or**
- (ii) **after June 30, 2005**, an alcohol server training

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1 **program established by the commission under**
 2 **7.1-3-1.5-5;**
 3 before applying for an employee permit; and
 4 (B) serves alcoholic beverages in a dining area or family room
 5 of a restaurant or hotel:
 6 (i) in the course of a person's employment as a waiter,
 7 waitress, or server; and
 8 (ii) under the supervision of a person who is at least
 9 twenty-one (21) years of age, is present at the restaurant or
 10 hotel, and has successfully completed a server training
 11 program approved by the commission.
 12 This subdivision does not allow a person at least nineteen (19)
 13 years of age but less than twenty-one (21) years of age to be a
 14 bartender.
 15 (b) **This subsection does not apply after June 30, 2005.** The
 16 commission may adopt rules under IC 4-22-2 to:
 17 (1) create a server training program;
 18 (2) outsource the server training program and licensing; and
 19 (3) establish fees under this section.
 20 SECTION 4. [EFFECTIVE UPON PASSAGE] (a)
 21 **Notwithstanding IC 7.1-3-1.5, as added by this act, the alcohol and**
 22 **tobacco commission may initiate rulemaking to implement**
 23 **IC 7.1-3-1.5, as added by this act.**
 24 (b) **This SECTION expires July 2, 2005.**
 25 SECTION 5. **An emergency is declared for this act.**

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